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August 7, 2006

BY E-FILE

The Honorable Joseph J. Farnan, Jr.
United States District Court for the District of Delaware
844 King Street, Lock Box 19
Wilmington, DE 19801

Re: NICE Systems, Inc. and NICE Systems, Ltd. v. Witness Systems, Inc.
C.A. No. 06-311-JJF

Dear Judge Farnan:

I write on behalf of Plaintiffs, NICE Systems, Inc. and NICE Systems Ltd. ("Nice") in response to the letter to the Court dated August 4, 2006 from William J. Marsden, defendant Witness Systems Inc.'s ("Witness") counsel. Witness requested that the Court postpone the Rule 16 scheduling conference with the parties presently set for September 7, 2006. Plaintiffs' counsel are prepared to attend the Rule 16 conference as scheduled but do not oppose a brief postponement so long as discovery in this action is not delayed.¹ Plaintiffs commenced this action on May 10, 2006 and are prepared to move this case forward. Witness, by letter dated July 13, 2006 (D.I. 21), previously requested that the Rule 16 conference be delayed until after the Court decided its motion to transfer. Your Honor promptly declined that application by letter order dated July 18, 2006 (D.I. 23).

In accordance with Fed. R. Civ. P. 26, discovery will begin on August 17, 2006, over three months after the filing of the Complaint in this action. Contrary to Witness'

¹ On July 20, 2006, defendant's counsel requested Plaintiff's counsel agree to the rescheduling of the September 7, 2006 Rule 16 scheduling conference. On the same day, Plaintiff's counsel agreed to the request so long as the parties satisfied their obligation under Rule 26(f) based the Sept. 7 date and not a later rescheduled date.

YOUNG CONAWAY STARGATT & TAYLOR, LLP

The Honorable Joseph J. Farnan, Jr.

August 7, 2006

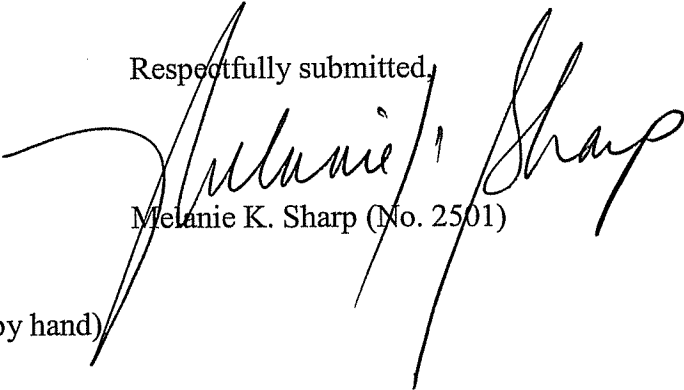
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assertions, there is no basis to further delay discovery in this action. Regardless of which Court ultimately hears the merits of this matter, discovery must take place.

Witness also implies that the Court should hold the Rule 16 conference and oral argument for Defendant's motion to transfer on the same day. Plaintiffs are willing to move forward with the Rule 16 conference as scheduled and appear for oral argument on another day. To the extent Mr. Setty's concern is oral argument on Defendant's motion to transfer, we respectfully suggest that the Court schedule such argument as soon as the Court's schedule permits within Mr. Setty's availability.

Therefore, because NICE believes that the defendant's request to reschedule the Rule 16 conference serves only to delay the case, and specifically discovery, from moving forward without any legitimate reason, NICE respectfully requests that the Court deny Witness' request to reschedule the Rule 16 conference. In the alternative, if the Court is inclined to grant his request for delay, Nice requests that the Court do so only on the condition that the parties use the September 7 date for the purposes of complying with Rule 26.

Respectfully submitted,


Melanie K. Sharp (No. 2501)

MKS:bele

cc: William J. Marsden, Jr., Esquire (by hand)